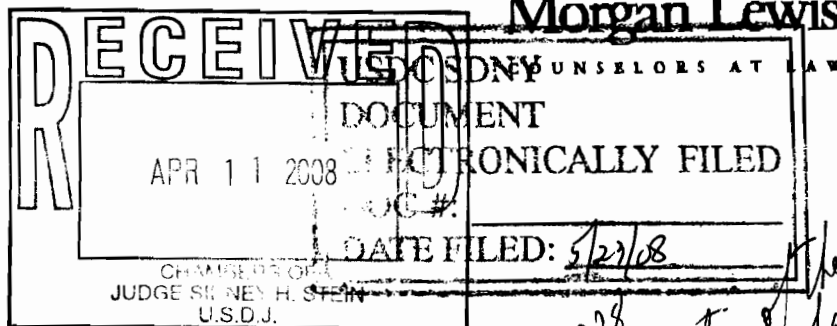


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April 11, 2008

**MEMO ENDORSED**

**BY FACSIMILE**

The Honorable Sidney H. Stein  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Steward v. City of New York, et. al.  
08 Civ. 2908 (SHS)

Dear Judge Stein:

We represent Pace University in the above-referenced matter and write in response to the April 2, 2008 letter of Michael O'Neill, counsel for Plaintiff, to the Court, wherein he requests that the claims against Pace University "be severed from plaintiff's complaint and litigated in the state court." Along with the Defendants City of New York, New York City Board of Education, and Harold O. Levy (the "City Defendants"), Pace University respectfully requests that this Court transfer the entire lawsuit to the United States District Court for the Eastern District of New York.

As described in Eric Eichenholtz's March 20, 2008 letter to the Court, Plaintiff's Estate filed this lawsuit in the Supreme Court, New York County, and the City Defendants removed it to this Court pursuant to 28 U.S.C. §1441(a). The lawsuit is identical to a lawsuit that the Plaintiff previously filed against the same Defendants in the Eastern District of New York, Civ. A. No. 04-CV-1508. That lawsuit was dismissed by the Honorable Carol Bagley Amon, Eastern District of New York (the "Trial Court"). Prior to dismissal, Pace University, per Judge Amon's procedures, had filed a written request to serve a motion to dismiss, as did the United Federation of Teachers. The City Defendants also had moved for summary judgment as to the sole federal claim in the lawsuit. All Defendants remained joined in the lawsuit at the time the Trial Court denied a request for an extension of time for the estate to file a motion for substitution and the Trial Court dismissed the lawsuit.

*May 23, 2008*  
*Upon application of the defendants and the partial agreement of the City defendants dated 5/20/08 and the City defendants' letter dated 5/20/08, the action is transferred to E.D.N.Y. pursuant to 28 U.S.C. §1404(a) due to the fact a prior action was filed on the same facts was pending there and a fully briefed motion for summary judgment was filed in E.D.N.Y. (see Steward v. City of N.Y., 04 Civ. 1508 (LBA) (RML)).*  
*So ordered.*  
*Sidney H. Stein*  
*USDC*

**Morgan Lewis**  
COUNSELORS AT LAW

The Honorable Sidney H. Stein  
April 11, 2008  
Page 2

Pace University disagrees with Plaintiff's position that this Court should sever this action, and respectfully maintains that the entire lawsuit, as Plaintiff pled it, should be transferred to the Eastern District of New York for a determination of the import of the Trial Court's Order regarding substitution and dismissal of the lawsuit as to all Defendants. Moreover, while it is accurate that the Trial Court decided that it would first address the City's Motion for Summary Judgment, the Trial Court had not yet rendered an opinion as to that claim at the time that it dismissed Plaintiff's lawsuit. Should the Trial Court ultimately permit Plaintiff's federal claim to proceed against the City Defendants, then Plaintiff's request to sever, if granted, will result in two actions arising out of the same set of facts to proceed on parallel tracks in two different courts. Such a result is both illogical and wasteful of the Court's resources.

Pace University respectfully requests, therefore, that this Court issue an order transferring this lawsuit in its entirety to the United States District Court for the Eastern District of New York. Pace University further requests that this Court extend the time to respond to the complaint until 30 days following either (a) the transfer of this case to the Eastern District of New York or (b) this Court's denial of the application to transfer this case.

Respectfully submitted,



Christie Del Rey-Cone

c: Michael O'Neill (by facsimile)  
Eric Eichenholtz (by facsimile)  
Christopher Callagy (by facsimile)